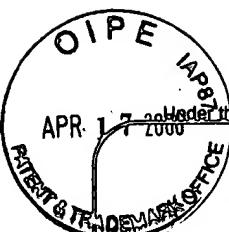


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Application Number	09/876,442
Filing Date	07 June 2001
First Named Inventor	Robert J. Davies
Art Unit	2642
Examiner Name	Thjuan P Knowlin
Attorney Docket Number	GB 000085

ENCLOSURES (Check all that apply)		
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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature	<i>Raymond J. Werner</i>		
Printed name	Raymond J. Werner		
Date	10 April 2006	Reg. No.	34,752

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Appl. No. 09/876,442

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant :	Robert J. Davies, et al.	:	
Appl. No. :	09/876,442	:	Art Unit : 2642
Filed :	07 June 2001	:	Examiner: T P Knowlin
Title :	Localised Audio Data Delivery	:	
Docket No. :	GB000085	:	

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

Sir:

This Appeal Brief is being filed in response to the Examiner's Final Rejection of Claims 1-10. A Notice of Appeal was filed on 14 February 2006.

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**Real Party In Interest**

The real party in interest in this application is the assignee, Koninklijke Philips Electronics N.V., a corporation of The Netherlands.

**Related Appeals or Interferences**

Applicants are not aware of any related appeals or interferences.

**Status of Claims**

Claims 1-10 are pending in the application, and all the pending Claims 1-10 have been finally rejected. The rejection of Claims 1-10 is being appealed.

**Status of Amendments**

No amendments have been presented subsequent to final rejection. All previously filed amendments have been entered.

**Summary of Claimed Subject Matter**

A concise explanation of independent Claims 1, 3, and 6, as required under 37 CFR §41.37(c)(1)(v), is provided below.

Briefly, independent Claim 1 recite a method in which a wireless transmitter, referred to as a beacon, combines two sets of data, each in a different format, into a single transmission, and wherein a portable receiver, which does not make a transmission to initiate this process, receives both sets of data, extracts the second set of data, and generates an audio output therefrom. Support for this Claim can be found in the specification at page 5, line 3 through page 6, line 20, and in Figs. 1-3.

Independent Claim 3 defines an audio data communications system that includes a beacon, or base station, (elements 12 and 14 in Fig. 1) that is operable to transmit a first message with a second set of data piggy-backed on that first message, and a portable device (10), e.g., a mobile phone or a personal digital assistant, that is operable to receive both the first message and the piggy-backed

data, and which is further operable to extract the piggy-backed data, interpret this data as audio data, and to generate an audio output from the data. The specification at page 5, line 3 through page 6, line 20, and Fig. 1 provide support for the invention as defined by Claim 3.

Independent Claim 6 relates to a mobile communication device (element 10 in Fig. 1), that includes means for receiving a transmission having data in a first protocol and additional data in a second protocol, means for determining the presence of the additional data in the transmission, and means for generating an audio output from the additional data. The specification at page 5, line 3 through page 6, line 20, and Fig. 1 provide support for the invention as defined by Claim 6.

**Grounds of Rejection To Be Reviewed On Appeal**

- 1) Claims 1-7 have been rejected under 35 USC §103(a) as being unpatentable over Ravago, et al., (US Patent 6,529,584), in view of Clarke, Jr., et al., (US Patent 6,085,235).
- 2) Claims 8-10 have been rejected under 35 USC §103(a) as being unpatentable over Ravago, et al., (US Patent 6,529,584), in view of Clarke, Jr., et al., (US Patent 6,085,235).

**Argument**

**Rejection of Claims 1-7 under 35 USC §103(a)**

For the reasons set forth below, Applicants respectfully submit that the recited limitations of independent Claims 1, 3, and 6 are not disclosed, suggested, or motivated by Ravago, et al., and Clarke, Jr., either singularly or in combination. Similarly, Applicant submits that the limitations of Claims 2, 4 and 5, and 7, which depend, respectively, from independent Claims 1, 3, and 6, are neither disclosed, suggested, or motivated by Dahl, et al.

Ravago, et al., disclose methods and apparatus for a navigable audio delivery system that includes an audio application and content. The application includes control data relating to the delivery of audio content to a user replay device. The delivery system facilitates the navigation between logical portions of the audio content by associating tag data with the audio content. The system also facilitates navigation between parallel portions of an audio program by including multiple layers of content in the audio program that is delivered to the user replay device. Importantly, in the system and method of Ravago, et al., a navigation command is received from the replay device, and responsive thereto, modifications to the audio data can be made prior to transmission to the replay device. In other words, Ravago, et al., teach a system that requires input from the user replay device.

Clarke, Jr., et al., disclose one or more servers that are connected to a network, and one or more service providers that provide content, including audio content, to those servers. The servers execute a process that parses the content into two or more channels, and then broadcasts those channels over the network to a plurality of computers. The server process examines the information sent from the service providers to determine zero or more of the categories that describe the content, and then labels the information with the channel identifier associated with the respective categories prior to sending the information over the network. The server can also run processes, and broadcast commands to the clients that associate/disassociate channel identifiers and categories.

Applicants' invention is directed to the inclusion of audio data in a second format, to messages in a first format, such that the included audio data is interpreted to be a broadcast of the audio data, and therefore the audio data may be received by a plurality of portable devices. In this way, such audio data may be received by the portable devices, without the portable devices having to make a transmission of their own to request the audio data. In this way, the portable devices advantageously conserve battery charge.

Independent Claims 1 and 3 are clear that no communication is made from the portable device to the beacon that transmits messages to which audio data has

been appended. This is different from the disclosure of Ravago, et al., which requires two-way communication and interaction between a replay device and the source of audio data.

The Examiner's citation of Ravago, et al., at cols. 1-2, lines 66-24, cols. 5-6, lines 55-38, does not show the broadcast of a series of messages with data fields arranged according to a first communication protocol and additional data representing audio data added to the data of the first communication protocol, as claimed. Rather, the cited material of Ravago, et al., makes clear that communication is required between the server and replay device, and that all the data sent to the replay device is audio data.

Ravago, et al., do not disclose, suggest, or provide motivation for the claimed communication format that includes a conventional message to which is added audio data that is treated as broadcast data by the portable devices receiving a transmission in the aforementioned communication format.

The Examiner cites col. 1, lines 23-29, cols. 11-12, lines 58-16, and col. 17, lines 31-44, of Clarke, Jr., et al., for a disclosure of one-way broadcasts. These disclosures of Clarke, Jr., et al., do not show the type of communication recited in Applicants' Claims. Rather, the cited material only discloses that audio information may be communicated on a satellite uplink; that a multi-cast (not a broadcast) of audio data may be made to user devices that have previously communicated an interest in receiving such information; and one-way communication of control information. None of these disclosures, alone or in combination with Ravago, et al., produces the claimed invention which requires no communication from the portable device to the beacon, and the transmission by the beacon of data in accordance with a first protocol and transmission of an additional data field that contains audio data and which audio data is interpreted as a broadcast by the receiving portable device.

The Advisory Action of 09 February 2006 includes the Examiner's Response to Applicants' previously filed arguments. The Examiner states that "one-way communication is not recited in the claims". Applicants respectfully point out that independent Claim 1 was amended on 24 August 2005 to include the limitation that

the portable device "makes no transmission to the beacon to initiate transmission by the beacon prior to receiving" the transmitted messages; and Claim 3 was amended at the same time to include the limitation that the beacon is arranged to broadcast, "without receiving a communication from the portable device". The Examiner's statement in the Advisory Action, that the claims do not include such limitations indicates that the claims have not been examined in light of the previously entered amendments.

Further, the Examiner's statement in the Advisory Action that "claim 2, of the present invention, recites two-way communication, which goes against Applicant's argument of there being only one-way communication", is erroneous. Applicants respectfully submit that the Claims do not recite one-way communication, but rather recite that the beacons transmit information in a first protocol and information in a second protocol, without having the portable device transmit to the beacon to initiate the beacon's transmission. Further, Applicants submit that the recitation in Claim 2 does not require two-way communication, but rather that the information in the first protocol is a Bluetooth inquiry message which is used for establishing two-way communication. In other words, the information in the second protocol is piggy-backed with the inquiry message, however there is no recitation in Claim 2 of the portable device transmitting to the beacon in order to initiate the beacon's transmission.

In view of the foregoing, Applicants respectfully submit that the rejection under 35 USC §103(a) of Claims 1-7 is improper and should be reversed.

Rejection of Claims 8-10 under 35 USC §103(a)

For the reasons set forth below, Applicants respectfully submit that the recited limitations of Claims 8-10 are not disclosed, suggested, or motivated by Ravago, et al., and Clarke, Jr., either singularly or in combination.

Claims 8-10 depend from independent Claim 1. Applicants respectfully submit that the arguments presented above in connection with independent Claim 1

are applicable here, and that rejection of these Claims is improper as noted above.

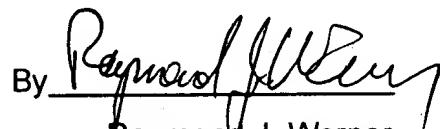
Additionally, with respect to Claims 8-10, Applicants respectfully assert that the Examiner has not addressed the limitations recited in these Claims. Claims 8-10, which depend from independent Claim 1, are directed to cyclical broadcast of an index of available audio information streams; broadcast of both continuous and discontinuous audio information streams; and the interruption of a continuous audio stream with data from a discontinuous audio stream. The Examiner has not shown that the references, either singularly or in combination, disclose suggest or provide motivation for the invention as defined by Claims 8-10.

In view of the foregoing, Applicants respectfully submit that the rejection under 35 USC §103(a) of Claims 8-10 is improper and should be reversed.

Conclusion

For the reasons set forth above, Applicant respectfully submits that the rejections of Claims 1-10 are improper and should be reversed.

Respectfully submitted,

By 

Raymond J. Werner  
Reg. No. 34,752

Dated: 10 April 2006  
Hillsboro, Oregon

CLAIMS APPENDIX

1. (Previously Presented) A method for enabling the user of a portable communications device to receive broadcast audio messages wherein at least one beacon device broadcasts a series of messages each in the form of a plurality of predetermined data fields arranged according to a first communications protocol, wherein the beacon adds to each such message prior to transmission an additional data field carrying broadcast audio message data, and wherein the portable device makes no transmission to the beacon to initiate transmission by the beacon prior to receiving the transmitted messages, extracts the audio broadcast data from said additional data field, and reproduces the audio to the user.
2. (Original) A method as claimed in claim 1, wherein said first communications protocol comprises Bluetooth messaging and the broadcast series of messages are inquiry messages for the establishment of two-way communications.
3. (Previously Presented) An audio data communications system comprising at least one beacon device capable of wireless message transmission and at least one portable device capable of receiving such a message transmission, wherein the beacon is arranged to broadcast, without receiving a communication from the portable device, a series of messages each in the form of a plurality of predetermined data fields arranged according to a first-communications protocol, wherein the beacon is further arranged to add to each such message prior to

transmission an additional data field carrying audio data, and wherein the at least one portable device is arranged to receive the transmitted messages, read the audio data from said additional data field and reproduce the same for the user.

4. (Original) A system as claimed in claim 3, wherein the beacon is arranged to include an indication in one of said predetermined data fields, said indication denoting the presence of audio data in said additional data field.

5. (Original) A system as claimed in claim 3, wherein said first communications protocol comprises Bluetooth messaging.

6. (Original) A mobile communication device for use in the system of claim 3, the device comprising a receiver capable of receiving a short-range wireless message including a plurality of data fields according to said first communications protocol means for determining when said additional data field has been added to said plurality of data fields, means for reading audio data from such an additional data field, and reproduction means for presenting the same to a user.

7. (Original) A device as claimed in claim 6, wherein the receiver is configured to receive messages according to Bluetooth protocols.

8. (Previously Presented) The method of Claim 1, further comprising broadcasting cyclically, by the at least one beacon, an index of available audio information streams.

9. (Previously Presented) The method of Claim 1, wherein the at least one beacon broadcasts both continuous and discontinuous audio information streams.

10. (Previously Presented) The method of Claim 1, wherein the portable device interrupts a continuous audio stream with data from a discontinuous audio stream.

EVIDENCE APPENDIX

NONE.

RELATED PROCEEDINGS APPENDIX

NONE.